



**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

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JOHN NAIMO  
ACTING AUDITOR-CONTROLLER

April 4, 2014

TO: Supervisor Don Knabe, Chairman  
Supervisor Gloria Molina  
Supervisor Mark Ridley-Thomas  
Supervisor Zev Yaroslavsky  
Supervisor Michael D. Antonovich

FROM: John Naimo  
Acting Auditor-Controller

A handwritten signature in black ink that reads "John Naimo".

SUBJECT: **DEPARTMENT OF PUBLIC HEALTH – NURSING HOME  
INVESTIGATION AUDIT (Board Agenda Item 49-A, March 4, 2014)**

On March 4, 2014, your Board instructed the Auditor-Controller, in coordination with County Counsel and with the cooperation of the Department of Public Health (DPH), to conduct an audit of the quality and integrity of nursing home investigations in Los Angeles County and report back to the Board of Supervisors in writing, in 30 days. The report shall include information on:

1. The current backlog of nursing home complaint investigations;
2. The reasons for the backlog;
3. The resources that would be needed to timely address the backlog; and,
4. The corrective action plan to timely address the backlog.

**Background**

Since the 1960's, the California Department of Public Health (State) has contracted with the DPH to provide licensing, certification, inspections, and investigations of the 2,500 health facilities in Los Angeles County. The State performs these functions for all other California counties. DPH's Health Facilities Inspection Division (HFID) provides the contracted services which includes investigations and inspections of various facilities, including acute care hospitals, skilled nursing facilities (nursing homes), homes for the intellectually impaired, hospice programs, ambulatory surgical centers, dialysis clinics, home health agencies, community care clinics, and congregated living facilities (i.e., for the catastrophic and severely disabled, ventilator dependent, and terminally ill).

HFID consists of four district offices with approximately 56 staff assigned to perform licensing, certifications, inspections, and investigations of the 385 nursing homes. HFID's contract requires each of the nursing homes to be inspected at least once every 15.9 months. HFID is charged penalties if they fail to meet this timeframe; however, no penalties are associated with delays in completing investigations. Since the same staff that perform inspections also perform investigations, HFID has indicated that inspections generally take priority over investigations. HFID has been able to perform inspections an average of once every 15.2 months in order to avoid penalties.

Complaints prioritized as "immediate jeopardy" are situations in which the facility's noncompliance with one or more requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident, and must be completed within 24 hours. For other less severe complaints and incidents, HFID is required to initiate an investigation within 10 working days of receiving the complaint or incident report.

The State also provides oversight of the contracted services through weekly meetings/conference calls, and requires HFID management to submit weekly Meeting Worksheets for each district office. The Meeting Worksheet provides details regarding open investigations, the number of investigations completed and closed, and the number of open investigations by year. Every four months, the State also hosts meetings in Sacramento with HFID management to discuss various nursing home topics.

### **Scope**

Our review focused on the following four key areas of DPH's nursing home investigations:

- The backlog of nursing home complaint investigations as of March 14, 2014;
- The reasons for the backlog;
- The resources needed to timely address the backlog; and,
- DPH's corrective action plan to timely address the backlog.

We also requested to review investigator case files to evaluate the quality of nursing home investigations, and to enable us to comment on the level of effort to clear the backlog. However, representatives from the California Department of Public Health and Department of Health and Human Services' Centers for Medicare and Medicaid Services, who are the State and federal agencies responsible for the nursing home certification and inspection program, cited federal privacy laws preventing us from accessing the case files. County Counsel worked on our behalf, and on April 2, 2014, we were granted permission to perform case reviews. Since we did not want to delay

the issuance of our report, we will perform case file reviews in the next two weeks, and we will report separately on our results.

For the purposes of this report, we reviewed the qualifications and training for a selected sample of staff conducting the investigations to verify they have received the required training and certification to perform nursing home investigations. We also compared the HFID's average number of hours to complete an investigation to the State's average to determine whether HFID is completing their investigations within a reasonable timeframe.

### **Results of our Review**

Based on our review, we noted areas for DPH to improve their overall management and oversight of investigations. Specifically, we noted the following:

- As of March 14, 2014, HFID had 3,044 open investigations. Approximately, 1,103 (36%) of the 3,044 investigations have been opened over 12 months with 945 of the 1,103 cases open for more than two years. HFID does not centrally monitor open investigations by the dates received, the timeframe for staff to complete investigations, or the time or number of hours it takes to complete investigations. In order to ensure that investigations are completed timely and to evaluate staff's progress in completing investigations, HFID needs to centrally manage open investigations. HFID management should also require district managers to document reasons for delays in completing investigations and plans for closing older investigations.

*DPH agrees with our recommendation and plans to train HFID management on how to use an existing aging report to better manage workload across all districts.*

- HFID is not monitoring their expenditures to ensure they maximize funding available under their State contract. Based on recent estimates, HFID estimates they will not bill approximately \$1.2 million of the \$26.9 million available on the contract. Additionally, for Fiscal Years 2011-12 and 2012-13 HFID did not spend approximately \$2.8 million and \$2.4 million, respectively.

*DPH agrees with our recommendation and is exploring the use of overtime, and hiring retirees to assist in reducing their backlog and maximizing the use of contract funds.*

- HFID is not able to identify the number of Full-Time Equivalent (FTE) positions currently performing investigations, or the total number of FTE positions needed to ensure investigations are completed timely.

*DPH agrees with the recommendation and based on information extracted from Automated Survey Processing Environment (ASPEN) Complaint Tracking System (ACTS), has developed estimates of ongoing staffing needs, and the number of additional hours needed to complete their backlog.*

*We reviewed DPH's estimates and we agree with their methodology for determining ongoing staffing needs. However, there are mathematical errors in determining the amount of time needed to complete annual investigations, thus resulting in an overstatement in the number of staff needed. For example, 3,381 annual complaints and incidents x 12 hours per investigation = 40,572 hours, rather than the 45,644 identified in their response. Additionally, we did not review information relating to inspections (surveys), so we cannot validate that 218 hours is a reasonable estimate for completing an inspection. Assuming DPH is correct that 84,366 hours are needed to complete inspections, the total number of staff needed to perform both investigations and inspections is 124,938 (40,572 + 84,366), or 71 FTEs, rather than 75 FTEs listed in their response.*

*We will validate DPH's estimates for addressing their backlog during our case reviews. However, we believe DPH's estimate may be overstated. For example, DPH's estimate assumes an average of 7.8 hours is needed to complete each of the outstanding investigations (e.g., 23,922 / 3,064 = 7.8 hours). Based on information provided by the State and ACTS, we determined it takes an average of 10.28 hours to complete an investigation (see chart on page 3 of our report). DPH's estimate assumes that all 3,064 open cases are only 24% complete (e.g., (10.28 – 7.8) / 10.28).*

- *HFID management does not have a mechanism to effectively manage their overall district workload that would enable them to identify the progress/status of the investigations, or evaluate reasons for delays in investigations. According to HFID management, to determine the status of any open investigation, they need to review each case file or request the information from the investigator.*

*DPH agrees with the recommendation and plans to work with the State to extract information from the ACTS to create effective management oversight tools.*

- *Neither the State contract nor HFID identifies specific timeframes for staff to complete the actual investigations after initiating them. Without timeframes/benchmarks to complete investigations, HFID is not conveying expectations to their staff and cannot hold them accountable for their performance. Benchmarks could also assist HFID management in supporting the need for additional contract funds from the State.*

*DPH agrees that establishing benchmarks is desirable, but they do not believe the benchmarks are achievable without additional resources.*

**Review of Report**

We discussed the results of our review with DPH management and staff. DPH's response (Attachment II) indicates general agreement with our recommendations. We thank DPH management and County Counsel for their cooperation and assistance during our review. Please call me if you have any questions, or your staff may contact Don Chadwick at (213) 253-0301.

JN:AB:DC:EB:yp

**Attachment**

c: William T Fujioka, Chief Executive Officer  
Sachi A. Hamai, Executive Officer, Board of Supervisors  
Jonathan E. Fielding, M.D., M.P.H., Director, Department of Public Health  
John F. Krattli, County Counsel  
Public Information Office  
Audit Committee  
Health Deputies

## DEPARTMENT OF PUBLIC HEALTH NURSING HOME INVESTIGATION AUDIT

### Background

Since the 1960's, the California Department of Public Health (State) has contracted with the Department of Public Health (DPH) to provide licensing, certification, inspections, and investigations of the 2,500 health facilities in Los Angeles County. The State performs these functions for all other California counties. DPH's Health Facilities Inspection Division (HFID) provides the contracted services which includes investigations and inspections of various facilities, including acute care hospitals, skilled nursing facilities (nursing homes), homes for the intellectually impaired, hospice programs, ambulatory surgical centers, dialysis clinics, home health agencies, community care clinics, and congregated living facilities (i.e., for the catastrophic and severely disabled, ventilator dependent, and terminally ill).

HFID consists of four district offices with approximately 56 staff assigned to perform licensing, certifications, inspections, and investigations of the 385 nursing homes. HFID's contract requires each of the nursing homes to be inspected at least once every 15.9 months. HFID is charged penalties if they fail to meet this timeframe; however, no penalties are associated with delays in completing investigations. Since the same staff that perform inspections also perform investigations, HFID has indicated that inspections generally take priority over investigations. HFID has been able to perform inspections an average of once every 15.2 months in order to avoid penalties.

Complaints prioritized as "immediate jeopardy" are situations in which the facility's noncompliance with one or more requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident, and must be completed within 24 hours. For other less severe complaints and incidents, HFID is required to initiate an investigation within 10 working days of receiving the complaint or incident report. The State contract identifies the following timeframes to complete investigations:

**Timeframe for Completing Investigations**

	Type of Complaint	
	Immediate Jeopardy	Non-Immediate Jeopardy
Timeframe to Initiate Investigation	24 hours	10 Business Days
Timeframe for Exit Meeting	<sup>1</sup>	<sup>1</sup>
Statement of Deficiency Form	10 Days after Exit	10 Days after Exit
Plan of Correction (due from facility)	10 Days after Statement of Deficiency	10 Days after Statement of Deficiency
Timeframe to Close Investigation	60 Days After Exit	60 Days After Exit

<sup>1</sup> Neither the State nor HFID have established a timeframe to complete an investigation and for the investigator to exit the findings with the facility.

HFID utilizes the Automated Survey Processing Environment (ASPEN) Complaint Tracking System (ACTS), a federal database to report the results of their investigations. HFID staff enters the following information into ACTS for each investigation:

- Date complaint received
- Allegations
- Contact information of complainant
- Facility name and contact information
- Priority of complaint
- Initiation Date of Investigation
- Investigator Assigned
- Formal Exit Date with Facility
- Results of Investigation
- Date Investigation Closed
- Hours Worked on Investigation

### **Scope**

Our review focused on the following four key areas of DPH's nursing home investigations:

- The backlog of nursing home complaint investigations (per ACTS) as of March 14, 2014;
- The reasons for the backlog;
- The resources needed to timely address the backlog; and,
- DPH's corrective action plan to timely address the backlog.

We also requested to perform case reviews in order to determine the quality and integrity of nursing home investigations and to help estimate the amount of time needed to complete the investigations. However, according to the representatives from the California Department of Public Health and Department of Health and Human Services' Centers for Medicare and Medicaid Services, federal privacy laws prevented us from accessing the case files. County Counsel worked on our behalf to allow us access to the case records; however, we were only approved to access case records on April 2, 2014. Since we did not want to delay the issuance of our report, we will perform case file reviews within the next two weeks, and we will report separately on our results.

We reviewed the qualifications and training for a selected sample of staff conducting the investigations to determine if HFID utilizes qualified staff to perform the nursing home investigations. In addition, we compared the average number of hours HFID uses to complete an investigation to the State's average to determine whether HFID is completing their investigations within reasonable timeframes.

### **Backlog of Nursing Home Investigations**

As of March 14, 2014, ACTS identified 3,044 open investigations. Approximately, 1,103 (36%) of the 3,044 investigations have been opened over 12 months with 945 of the 1,103 cases opened for more than two years. HFID does not centrally monitor open investigations by the dates received, or the timeframe for staff to complete investigations. According to HFID management, ACTS does not provide useful case management reports. Additionally, since ACTS is a federal system, HFID cannot modify the system to generate reports that will assist them in managing their workload.

As part of our review, we extracted data from ACTS that allowed us to identify all open investigations by calendar year, and we manually calculated the length of time the investigations have been open. The oldest open case was referred to HFID on January 26, 2010. The following chart shows the length of time that the 3,044 investigations have been open:

Length of Time Investigations Open	Number of Investigations By District				
	West	East	San Gabriel	North	Total
Less than 3 months	73	156	176	139	544
3 to 6 months	71	154	237	77	539
6 to 12 months	142	112	449	155	858
12 to 24 months	43	12	61	42	158
Over 24 months	388	38	324	195	945
<b>Total</b>	<b>717</b>	<b>472</b>	<b>1,247</b>	<b>608</b>	<b>3,044</b>

According to the State, their investigators take an average of 11.39 hours to complete and investigation. During our review, we noted that HFID management does not track the time or number of hours it takes to complete HFID's investigations. Utilizing information in ACTS, we determined that HFID investigators take an average of 10.28 hours to complete an investigation. Following is information about investigations completed at each of the four HFID district offices:

	District Offices				
	West	East	San Gabriel	North	Totals
# of Skilled Nursing Facilities	96	100	92	97	385
# of Investigative Staff	15	13	16	12	56
# of Complaints and ERIs Received since 2012	1,385	1,604	2,424	1,876	7,289
# of Investigations Closed since 2012	814	1,112	1,331	1,334	4,591
# of Investigation Outstanding since 2012	571	492	1,093	542	2,698
Average Hours to Close an Investigation	<b>6.35</b>	<b>9.16</b>	<b>9.37</b>	<b>16.23</b>	<b>10.28</b>



In order to ensure that investigations are completed timely and to evaluate staff's progress in completing investigations, HFID needs to centrally manage open investigations. HFID management should also require district managers to document reasons for delays in completing investigations and plans for closing older investigations.

HFID management should also evaluate disparities in hours to complete investigations among their four district offices.

### **Recommendations**

#### **Department of Public Health management:**

- 1. Generate an aging report from the information on the Automated Survey Processing Environment (ASPEN) Complaint Tracking System, centrally manage the open investigations by the date received and priority, and require district managers to provide Health Facilities Inspection Division management with justifications for the delays and corrective action plans for closing older investigations in a timely manner.**
- 2. Evaluate disparities in the number of hours required to complete investigations.**
- 3. Consider working with the State and federal governments to generate various reports (e.g., aging, etc.) directly from the Automated Survey Processing Environment (ASPEN) Complaint Tracking System.**

### **Reasons that Contributed to the Nursing Home Investigations Backlog**

#### **Contract Staffing and Funding**

HFID reported that their current staffing is not sufficient to complete the workload required under the State contract. HFID's existing contract with the State identifies 178 positions will be funded with the contract amount of \$26.9 million to perform licensing, certifications, inspections, and investigations. However, according to DPH Finance Division, the \$26.9 million contract amount was based on older salary information (e.g., Fiscal Year 2008-09) that did not consider adjustments to salaries and employee benefits. As a result, to ensure HFID does not exceed the contracted amount, only 151 positions have been authorized to be filled. HFID estimates that they need \$33.5 million to fully fund the 178 staff they believe are necessary to perform the contracted work.

We noted that HFID is not monitoring their expenditures to ensure they maximize funding available under their State contract. HFID estimates they will not bill approximately \$1.2 million of the \$26.9 million contract maximum amount. Additionally,

the following schedule illustrates that unspent contract funds exceeded \$2 million in each of the last two fiscal years.

<b>Fiscal Years</b>	<b>Contract Budget</b>	<b>Expended</b>	<b>Not Expended</b>
2011-12	\$26.9 million	\$24,118,272	\$2,832,980
2012-13	\$26.9 million	\$24,470,923	\$2,480,329

If HFID expects the State to dedicate \$33.5 million or more for future contract periods, it is imperative that they demonstrate the need for additional funding by billing the maximum contract amounts annually. Additionally, to help address the current backlog, DPH management should evaluate the use of overtime, which can also help reduce the anticipated \$1.2 million surplus available in the current contract period.

As previously mentioned, completing investigations is just one function of the HFID staff. At the time of our review, HFID was not able to identify the number of Full-Time Equivalent (FTE) positions currently performing investigations, or the total number of FTE positions needed to ensure all investigations are completed timely. Determining the appropriate staffing level and funding needs is critical in order to avoid backlogs.

### **Recommendations**

#### **Department of Public Health management:**

- 4. Monitor the Health Facilities Inspection Division's expenditures to fully expend the State contract budgeted allocations.**
- 5. Identify the total Full-Time Equivalent staff needed to complete the current and pending investigations in compliance with their State contract.**
- 6. Request and provide support for a budget increase from the State to fund the additional positions, if needed.**

### **Case Management**

According to HFID management, each district office manages its own investigations using ACTS. However, based upon our review, we noted that the district offices do not manage their workload to ensure investigations are completed and closed timely. Additionally, ACTS does not generate reports that assist HFID or the State in effectively managing their caseload. For example, ACTS does not generate reports relating to open investigations by investigator, aging reports of open investigations, etc. Additionally, HFID management does not have another mechanism to effectively manage their overall district workload, such as to identify the progress/status of the investigations, or evaluate reasons for delays in investigations. According to HFID

management, in order to determine the status of each open investigation, they need to review each case file or request the information from the investigator.

As previously mentioned, we were not approved to access investigation case files until April 2, 2014. Additionally, since a review of the case files is necessary to determine the level of completion for backlogged investigations, we were not able to estimate the amount of time necessary to close backlogged cases.

### **Recommendations**

#### **Department of Public Health management:**

- 7. Establish and implement a centralized mechanism to manage and track the status of individual investigations and overall workload.**
- 8. Require Health Facilities Inspection Division district office managers and supervisors to report the status of their investigations on a monthly basis to management.**

#### **Timeframe to Complete Investigations**

As previously noted, the State contract identifies specific timeframes for HFID to initiate investigations, report the results of their investigations to the facilities, obtain the Plan of Correction from the facilities, and close the investigations. However, neither the State contract nor HFID identifies a timeframe for staff to complete investigations.

For example, below is the timeline for one “immediate jeopardy” complaint investigation that was substantiated and completed within timelines established by the State:

<b>DATES</b>	<b>STATUS OF INVESTIGATION</b>
January 31, 2013	Complaint Received
January 31, 2013	Investigation Initiated
November 5, 2013	Formal Exit Conducted
December 29, 2013	Report Finalized and Investigation Closed

As previously mentioned, complaints that are prioritized as “immediate jeopardy” are situations in which the facility’s noncompliance with one or more requirements has caused, or likely to cause, serious injury, harm, impairment, or death to a resident. According to ACTS, the investigator spent only 14.2 hours to actually perform the investigation, report the results, and close the investigation. However, for the above “immediate jeopardy” complaint investigation, HFID reported the results and closed the investigation approximately 11 months after the investigation was initiated. Without timeframes/benchmarks to complete investigations, HFID is not conveying expectations to their staff and cannot hold them accountable for their performance. Benchmarks could also assist HFID management in supporting the need for additional contract funds from the State.

According to HFID management, highest priorities are given to facilities inspections and “immediate jeopardy” complaints investigations. HFID management indicated that establishing expected timeframes to complete investigations would be difficult since the length of the investigations vary depending on type and number of allegations made in the complaint received, and some investigations involve working with outside agencies to obtain necessary information. However, DPH should establish internal benchmarks, budgets, and due dates to assist in monitoring HFID’s completion of investigations. As monitoring reports are generated, DPH can adjust the benchmarks as appropriate.

### **Recommendation**

- 9. Department of Public Health management establish benchmarks, budgets, and due dates to ensure that investigations are performed within reasonable timeframes to ensure that investigations are closed in a timely manner.**

### **Resources Needed to Timely Address the Backlog**

#### **Investigation Quality**

In accordance with the State Operations Manual, staff that performs investigations of nursing homes must successfully complete federally approved training and pass the Surveyor Minimum Qualification Test (SMQT). We reviewed personnel files of five HFID investigation staff and determined that all five (100%) personnel files lacked documentation to support that the investigation staff had passed the SMQT. After bringing this issue to the attention of HFID management, we were subsequently provided with documentation that all five investigative staff passed the SMQT. DPH should ensure that appropriate documentation is maintained in staff’s personnel files to support that they meet the minimum qualifications for their position.

As previously mentioned, we were not able to review HFID’s case files prior to the issuance of this report. We will review case files within the next two weeks and issue a separate report to identify additional concerns that may result.

### **Recommendation**

- 10. Department of Public Health management maintain documentation in the employees’ personnel files to support that the surveyors passed the Surveyor Minimum Qualification Test.**

### **Resources Needed to Timely Address the Backlog**

After we complete our case reviews, we will issue a separate report with suggestions for addressing the backlog. In this report, we have recommended areas for DPH to improve their overall management and oversight of investigations, such as monitoring the status of open investigations, establishing benchmarks for completing

investigations, and determining the actual number of FTEs currently utilized to complete investigations. We also suggested the use of overtime to address the current backlog and to ensure HFID makes full use of their current contract spending limit.

**Corrective Action Plan to Timely Address the Backlog**

DPH management indicated that they are looking at best practices across the State that could streamline and improve the quality of investigations, and will work with the State for more realistic staffing/funding model based on State averages for time to complete investigations and inspections. DPH management also indicated that they may hire retirees to assist in addressing the backlog and look into possible automation of State contract functions and report writing processes to prevent future workload backlogs.

DPH must provide the State a written plan by April 4, 2014 describing the action steps it will take to address these open issues in the four district offices. In the plan, DPH must provide timelines for the completion of all investigations and separately identify the steps to address investigations received in or prior to 2012.



**JONATHAN E. FIELDING, M.D., M.P.H.**  
Director and Health Officer

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Fifth District

April 3, 2014

TO: Each Supervisor

FROM: Jonathan E. Fielding, M.D., M.P.H.  
Director and Health Officer

*Jonathan E. Fielding MD*

SUBJECT: **RESPONSE TO AUDITOR-CONTROLLER NURSING HOME AUDIT**

This is to provide you with the Department of Public Health's response to the Auditor-Controller's audit of the quality and integrity of nursing home investigations in Los Angeles County. On March 4, 2014, your Board instructed the Auditor-Controller to complete a program audit of the Health Facilities Inspection Division and report back within 30 days.

Many of the Auditor-Controller's recommendations to improve oversight and efficiency of the Health Facilities Inspection Division (HFID) are helpful and we have already taken actions to improve program management and oversight. However it will require additional resources for DPH to effectively close out investigations in a timely manner. DPH will continue to request additional resources from the State to adequately support the HFID contractual obligations. In our response, we provide an analysis of the funding required to enable the program to remain current in its contractual obligations as well as eliminate the backlog of unclosed cases.

DPH's response to the Auditor-Controller's audit recommendations is provided in Attachment I.

If you have any questions or would like additional information, please let me know.

JEF:cb

**Attachment**

c: Chief Executive Officer  
County Counsel  
Executive Officer, Board of Supervisors

Attachment I

**LOS ANGELES COUNTY DEPARTMENT OF PUBLIC HEALTH RESPONSE TO  
AUDITOR-CONTROLLER NURSING HOME INVESTIGATION AUDIT**

**Background**

The Health Facilities Inspection Division (HFID) program of the Department of Public Health (DPH) is operated on behalf of the State of California. Los Angeles County, a State contractor since the 1960's, is the only county in the nation that conducts such a program through a contract. In all other states and counties in California, the work is done by staff directly hired by the State. While the State contract allows some local responsiveness by the County, HFID is highly circumscribed by policies controlled by the State and Federal governments. In fact, since the local Health Officer does not have oversight of the program, he cannot readily access records, nor can the Health Officer or other managerial staff go out with inspectors on investigations. As a consequence, general oversight of the program is impeded. HFID has taken the contract responsibility seriously, and diligently attempted to fulfill all of its contractual obligations.

Because of these managerial challenges as well as insufficient State funding to provide timely responses to all complaints, DPH had exploratory discussions with the State about exercising the contract option to transfer the program back to the State. In the past, the State has indicated that such a transfer would likely take two years to accomplish. In addition, the SEIU has expressed concerns about impact on its members and opposed the transfer back to the State.

Starting in fiscal year (FY) 2008-09, the State began to require that inspections of nursing homes and other health facilities be conducted primarily by nurses. This significantly increased the cost of the program. The State provided an increase in funding for FY 2008-09, in part to support more nursing positions. Around the same time, the SEIU successfully negotiated salary increases for the Health Facility Evaluator Nurse positions. The negotiated annual total budget for the contract period July 2012 through June 2015 was capped at \$26.9 million, even though the County had requested approximately \$31 million, the amount needed to fund the 178 full-time equivalent (FTE) positions allocated for this program. Because the contractual amount was less than required by the County to cover increases in County salaries, employee benefits and indirect costs, HFID froze a number of positions to balance the budget. Subsequent requests to the State for budget increases to fully fund the program have been denied.

To request a budget increase, a Budget Change Proposal (BCP) must be submitted in May, approximately 14 months prior to the following year's July 1 effective date. There is no assurance that a BCP submitted by the County will be approved. CDPH evaluates the BCP based on a number of factors including workload and a comparison of the State's salary and benefits levels to the County's. If CDPH agrees with the BCP, it is transmitted to the State Department of Finance in November with a recommendation to incorporate it into the Governor's January Proposed Budget, and then to the Legislative Budget Committees. Concurrent with the BCP process, in the fall, the State initiates updates to the health facilities fees for the coming fiscal year and publishes them in February effective in July. Since County salaries and employee benefits are significantly higher than comparable state positions, previous BCPs have been denied.

HFID has had to aggressively control annual expenditures, including a freeze on hiring and other expenditures, to stay within contract limits. The lack of authority to move funds between line items in the budget, a cumbersome process to request additional funding, and difficulties in recruiting and filling vacancies has hampered contract performance and led to underspending in the past fiscal years.

#### **Recommendation 1**

**Generate an aging report from the information on ACTS, centrally manage the open investigations by the date received and priority, and require district managers to provide HFID justifications for the delays and corrective action plans for closing older investigations in a timely manner.**

##### **DPH Response to Recommendation 1:**

Agree. Currently HFID district staff produce an aging report from the federal Automated Survey Processing Environment (ASPEN) Complaint Tracking System (ACTS) used by the Federal and State governments to track health facility investigations. HFID management will receive training on how to use this report to better manage the workload across all the districts.

#### **Recommendation 2**

**Evaluate disparities in the number of hours required to complete investigations.**

##### **DPH Response to Recommendation 2:**

Agree. Per the Standard Hours Report provided by the State for this audit, the average time it takes Los Angeles County to complete a long-term facility



investigation is 10.28 hours, which is better than the three year State average of 11.39 hours. Yet, the averages per district range between 6.35 to 16.23 hours. It will be important to understand the reasons for the differences in the average hours to complete investigations by district. Doing so would allow us to implement best practices from other districts. Unfortunately, the State has not made this information readily available. The Auditor-Controller requested a special data run from the State to do their analysis. HFID management will explore with the State how we can get regular data reports on the average hours to complete an inspection and utilize this information to improve the overall performance of the inspectors.

### **Recommendation 3**

**Consider working with the State and federal governments to generate various reports (e.g., aging, etc.) from ACTS.**

#### **DPH Response to Recommendation 3:**

Agree. We concur that improving the functionality and flexibility of ACTS would be of great benefit. However our ability to access data and create custom reports is limited. Currently, many reports for oversight and management would have to be generated manually. HFID will continue to work with the State to enhance report generation for management purposes.

### **Recommendation 4**

**Monitor HFID's expenditures to fully expend the State contract budgeted allocations.**

#### **DPH Response to Recommendation 4:**

Agree. The under-expenditures are a byproduct of the limitations of a previous line-item budget which restricts the County's ability to optimize use of funds. Any expenditures in excess of the appropriation in the line item budget put the County at risk for covering the expenses with net County cost. Difficulties in recruiting and filling vacancies, coupled with the lengthy training time before staff are able to conduct inspections and surveys have also contributed to underspending. HFID has progressively become more efficient and effective in the filling of vacant positions and HFID anticipates fully expending the contractual authority in fiscal year 2014-15 and having a deficit of \$(0.1) million beyond the contractual

authority for that year. The program will work with DPH Finance to more aggressively oversee the HFID contract throughout the year. Among the strategies being employed to expend all the funding are the continued approval of overtime for HFEN staff and the use of retirees.

Contract Year	Unspent Funds
FY 2013-2014	\$1,268,102*
FY 2014-2015	(\$100,298)

\* The \$1.27 million is a maximum and we anticipate it to be lower due to computer purchases made this fiscal year.

### **Recommendation 5**

**Identify the total staffing (FTEs) needed to complete the current and pending investigations in compliance with their State contract.**

#### **DPH Response to Recommendation 5:**

Agree. DPH has conducted an extensive analysis to determine the resources required to eliminate the backlog and keep current with ongoing work. DPH Finance developed the following staffing models based on County average time to complete investigations and surveys.

#### **Staffing Required for Current Workload**

To determine the total staffing needed to enable HFID to complete all work in a timely manner without accruing a backlog, we looked at the average annual hours required to complete the 387 facility surveys and the estimated 3,381 annual complaints and mandated facility self-reported incidents ("Entity Reported Incidents" or "ERIs"). It takes an average of 10-12 hours to complete an investigation, depending on whether it is patient care or focused on facility issues. We estimated approximately 45,644 total hours per year for investigations. It takes an average of 218 hours to complete a survey, for an annual total of 84,366 hours. The combined workload for investigations and surveys is 130,010 hours which equates to 75 positions (FTEs). The current contract provides funding for 51 positions. This results in a staffing shortage of 40,046 hours and the need for an additional 24 positions at a cost of \$4.5 million annually. Table A reflects the annual cost increase needed to support the program and not accrue a backlog.

TABLE A

	HOURS	COST	POSITIONS
Required	130,010	\$13.9 million	75
Current budget	89,964	\$9.4 million	51
Shortfall	40,046	\$4.5 million	24

Staffing Required to Address Outstanding Complaints

To address the outstanding complaints<sup>1</sup> and ERIs, it will take 23,922 hours which equates to 7 FTEs. HFID has explored hiring retirees to assist with this workload. While it takes 12-15 months to train a new employee to be able to conduct investigations and surveys, a retiree can be in the field after a one-week refresher course. It should be noted that retirees are limited to 960 hours per fiscal year (approximately 6 months). DPH estimates that by hiring 4 retirees and 5 new employees at a cost of \$3.1 million in one-time funding for the period of May 2014 through October 2016, we could eliminate the backlog (Table B). This includes the ongoing cost of overtime for existing staff. DPH has also asked the State about the possibility of providing experienced staff from other districts in the State to assist us to reduce the backlog even sooner.

TABLE B

PERIOD	BACKLOG CASES	ONE-TIME COST
May 2014 through October 2016	3,064 <sup>1</sup>	\$3.1 million

Staffing Required to Meet All Ongoing Demands

To meet the challenge of reducing the backlog and increasing staffing levels for ongoing work, HFID would require an additional \$6.1 million for FY 2014-15 and an additional \$7.5 million for three fiscal years: FY 2015-16, 2016-17, and 2017-18. This model assumes that a cohort of 14 employees could start as early as July 2014. This cohort would spend the first year in training. An additional cohort of seven staff would start in January 2015, and be fully functional in January of 2016. While these cohorts are being trained, HFID would continue to rely on staff overtime, the use of retirees, and the redirection of 7 supervisors who could assist with the backlog of complaints. Starting in 2018, the backlog of open complaints would be closed out and the staffing cost to maintain the ongoing workload is estimated at an additional cost of \$4.5M for 24 positions, based on

<sup>1</sup> Based on the Aspen Complaint Tracking System (ACTS) reports as of March 6, 2014, there were 3,064 outstanding complaints whereas Auditor-Controller data was reflecting 3,044 as of March 14, 2014.

2014 salary costs, and would probably need to be adjusted for any possible cost of living, benefits and salary increases in 2018 (Table C).

TABLE C

PERIOD	COST	POSITIONS
Fiscal Year 2014-15	\$6.1 million	21
Fiscal Year 2015-16	\$7.5 million	21
Fiscal Year 2016-17	\$7.5 million	21
Fiscal Year 2017-18	\$7.5 million	21
After July 2018	\$4.5 million	24

### **Recommendation 6**

**Request and provide support for a budget increase from the State to fund the additional positions, if needed.**

#### **DPH Response to Recommendation 6:**

Agree. HFID requested a \$3.3M increase for FYs 2008-2009 through 2010-11 for salary increases based on LAC and SEIU contract agreements. The State denied this request in January 28, 2010. This forced DPH to freeze 22 positions of the 178 allocated positions in FYs 2011-12 through 12-13 and 27 positions in FY 2013-14 in order to operate within the allocated budget. HFID also submitted revised budgets to the State for FY 2012-13 and 2013-14 on April 27, 2012. The State response was:

*"L&C does not have the authority to increase the contract amount and with cutbacks to the current state fiscal climate, it would be difficult to justify; in addition, the state may be reducing program appropriations by implementing program efficiencies and abolishing current authorized positions and state workload."*

This response was shared with the Auditor-Controller.

DPH has informed the State of the funding that is needed to meet all program requirements, and will request additional funding for FY 2014-15 as well as submit a budget change proposal for 2015-16 by May 1, 2014. If additional

funding is not forthcoming, DPH will recommend contract termination to the Board of Supervisors.

**Recommendation 7**

**Establish and implement a centralized mechanism to manage and track the status of individual investigations and overall workload.**

**DPH Response to Recommendation 7:**

Agree. We agree that a centralized mechanism would be helpful for management oversight. Yet, individually tracking the status of each investigation through a manual system would be very staff resource intensive. HFID will explore with the State the ability to extract information from the current State/federal databases and create effective management oversight tools.

**Recommendation 8**

**Require HFID district office managers and supervisors to report the status of their investigations on monthly basis to management.**

**DPH Response to Recommendation 8:**

Agree. It would be of benefit to monitor the status of each investigation on a regular basis, though this would be a very time consuming manual task. HFID will explore with the State the ability to extract information from the current State/Federal databases and create effective management oversight tools.

**Recommendation 9**

**Establish benchmarks, budgets and due dates to ensure that investigations are performed within reasonable timeframes to ensure that investigations are closed in a timely manner.**

**DPH Response to Recommendation 9:**

Agree. We agree that establishing benchmarks to ensure that investigations are completed within reasonable timeframes is desirable. But unless the State provides additional resources, HFID will not be able to meet them. Our workload analysis (see Recommendation 5) demonstrates the need for additional staff.

Without additional staff we cannot ensure that investigations will be closed in a timely manner.

It should be noted that HFID is meeting all State and federal milestones and that the average time it takes for HFID staff to complete an investigation is 10.32 hours, which is significantly better than the statewide average of 11.39 hours. The California Department of Public Health does not specify a timeframe for completion of complaint investigations.

The Auditor-Controller staff reviewed an Immediate Jeopardy complaint. In this example, all federal and State timelines were met but the report was not finalized for 11 months. The complaint was received on January 31<sup>st</sup> 2013 and the investigation was initiated the same day. The investigator found there was no immediate jeopardy. This particular investigator passed away on September 21, 2013 in the middle of the complaint investigation. Due to these extenuating circumstances, the complaint investigation was completed by the district's assistant supervisor on November 5, 2013, the formal exit date. Yet, even in this instance, the complaint was completed and closed within the State/federal requirement of 60 working days of the formal exit, on December 29, 2013. Investigators are frequently pulled from one emergency to another which requires ad hoc juggling and re-prioritizing of work as complaints and ERIs are received. This inherently introduces inefficiencies into the system. HFID's focus will continue to be on protecting the health and safety of residents in long-term care facilities by prioritizing the complaints that indicate there is immediate jeopardy over finalizing reports for less serious complaints.

#### **Recommendation 10**

**Maintain documentation in the employees' personnel files to support that the surveyors passed the Surveyor Operations Qualifications Test.**

##### **DPH Response to Recommendation 10:**

Agree. Documentation showing that the surveyors have passed the Surveyor Operations Qualification Test should be kept in each employee's personnel file. The employees reviewed by the Auditor-Controller have all successfully completed the federally approved trainings and have passed the SMQT. HFID management will ensure that all staff qualifications are maintained in the personnel file.